IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

THURSDAY, THE 9TH AUGUST 2007 / 18TH SRAVANA 1929

Crl.MC.No. 3212 of 2004

MC.1/1996 of JUDL.MAGISTRATE OF FIRST CLASS, CHENGANNUR
CRRP.89/1998 of ADDL. SESSIONS COURT-II, MAVELIKKARA

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PETITIONERS/REVISION PETITIONERS/PETITIONERS:

1. ELSAMMA JOHN, THEKKETHALACKAL HOUSE,
   CHRISTIAN COLLEGE JUNCTION,
   ANGADICAL SOUTH P.O., CHENGANNUR.

2. ASHA T. JOHN, MINOR (AGED 9 YEARS)
   THEKKETHALACKAL HOUSE, CHRISTIAN
   COLLEGE JUNCTION,
   ANGADICAL SOUTH P.O., CHENGANNUR.

BY ADV. SRI.K.RAMAKUMAR

RESPONDENTS/STATE &RESPONDENT:

1. STATE OF KERALA, REPRESENTED BY THE
   PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
   ERNAKULAM, KOCHI-682 031.

2. SRI. T.J. JOHN, THEKKETHALACKAL VEEDU,
   NEAR MARTHOMA OLIVERT ARAMANA,
   THITTAMEL MURI, CHENGANNUR.

BY PP SRI.P.RAVINDRA BABU

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 09/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.P. Balachandran, J.

Crl.M.C.No. 3212 of 2004

ORDER

Petitioners are the wife and child of the second respondent. Though the second respondent had raised a contention that the second petitioner is not his child, that has been found against by the courts below. Maintenance was refused to the petitioners in M.C.No.1/96 by Annexure-A order as it was found that the first petitioner/wife is in very affluent circumstances and is employed in Gulf, whereas the second respondent/husband, who was originally employed in Gulf is now not so employed and is in his native place. It was also found that the second petitioner, minor child is also not entitled to be paid any amount by the second respondent for the reason that an amount of Rs.1,85,000/- is in Fixed Deposit in her name and that fetches an annual interest of Rs.22,200/-. It was further found that the petitioners are residing in the property and building belonging to the second respondent. Thus, considering the entire evidence adduced in the case, the learned Magistrate, vide

Annexure-A order, has found that both the petitioners are able to maintain themselves. It was, therefore, that maintenance claimed was refused and M.C.No.1/96 was dismissed by the learned Magistrate.

2. Crl.R.P.No.89/98 filed by the petitioners, impugning the correctness of Annexure-A order passed by the learned Magistrate was dismissed by the Additional Sessions Judge, Mavelikara, concurring with the findings of the learned Magistrate that the petitioners are capable of maintaining themselves, on a proper re-evaluation of the entire evidence in the case. On going through the concurrent orders of the courts below, I am not convinced that any ground exists for this Court to interfere in the matter and to allow the claims advanced.

In the circumstances, this Crl.M.C. is devoid of merit and is dismissed.

9th August, 2007 (K.P.Balachandran, Judge)

tkv